

## APPENDIX A | SECTION 7 ADMINISTRATIVE CONSULTATION COSTS

1. This appendix presents administrative costs of consultations undertaken according to section 7 of the Act associated with the potential critical habitat area for the lynx. First, this Appendix defines the types of administrative costs quantified. Next, it presents the estimated number of pre-designation and post-designation consultations associated with the potential critical habitat area by activity and subunit.

**A.1 CATEGORIES OF CONSULTATIONS**

2. Section 7(a)(2) of the Act requires Federal agencies to consult with the Service whenever activities that they undertake, authorize, permit, or fund may affect a listed species or designated critical habitat. There are two scenarios under which the designation of critical habitat can result in section 7 consultations with the Service beyond those required by the listing. These include:

- New consultations, which can occur when activities involving a Federal nexus are proposed in critical habitat not thought to be currently occupied by the species; and
- Re-initiations of consultations, which result when consultations that previously occurred under the listing are re-initiated due to new information or circumstances generated by the designation.

In some cases, consultations will involve the Service and another Federal agency only, such as the U.S. Forest Service. Consultations may also include a third party involved in projects on non-Federal lands with a Federal nexus, such as state agencies and private landowners.

3. During a consultation, the Service, the Federal agency, and the third party applying for Federal funding or permitting (if applicable) communicate in an effort to minimize potential adverse effects to the species and/or to the proposed critical habitat. Communication between these parties may occur via written letters, phone calls, in-person meetings, or any combination of these. The duration and complexity of these interactions depends on a number of variables, including the type of consultation, the species, the activity of concern, and the potential effects to the species and designated critical habitat associated with the activity that has been proposed, the Federal agency, and whether there is a private applicant involved.
4. Section 7 consultations with the Service may be either informal or formal. *Informal consultations* consist of discussion between the Service, the Federal agency, and the applicant concerning an action that may affect a listed species or its designated critical

habitat. The process is designed to identify and resolve potential concerns at an early stage in the planning process. By contrast, a *formal consultation* is required if the Federal agency determines that its proposed action may or will adversely affect the listed species or designated critical habitat in ways that cannot be resolved through informal consultation. The formal consultation process results in the Service's determination in a Biological Opinion of whether the action is likely to jeopardize a species or adversely modify critical habitat, and recommendations to minimize those impacts. Regardless of the type of consultation or proposed project, section 7 consultations can require substantial administrative effort on the part of all participants.

5. In December 2002, the U.S. District Court for the District of Columbia enjoined the Service from concurring in any section 7 consultation that an activity was "not likely to adversely affect" the lynx until after the final critical habitat designation was completed.<sup>1</sup> The Plaintiffs in the case were 12 conservation organizations including Defenders of Wildlife, Biodiversity Legal Foundation, Northwest Ecosystem Alliance, The Fund for Animals, Humane Society of the U.S., Kettle Range Conservation Group, Oregon Natural Resources Council, Predator Conservation Alliance, Restore: The North Woods, Superior Wilderness Action Network, American Lands Alliance, Conservation Action Project, and Mark Skatrud. The goal of the injunction was to require the Service to fully review the conservation implications on the lynx of all activities with a Federal nexus by preparing a formal biological opinion. In January of 2004, however, the Plaintiffs concluded that the injunctive relief sought and obtained did not provide the protection that they had hoped in motivating the Service to complete the critical habitat designation faster. The injunction was therefore lifted.<sup>2</sup>

## **A.2 ESTIMATED COSTS OF CONSULTATIONS AND TECHNICAL ASSISTANCE**

6. Estimates of the cost of an individual consultation and technical assistance request were developed from a review and analysis of historical section 7 files from a number of Service field offices around the country conducted in 2002. These files addressed consultations conducted for both listings and critical habitat designations. Cost figures were based on an average level of effort of low, medium, or high complexity, multiplied by the appropriate labor rates for staff from the Service and other Federal agencies.
7. The administrative costs estimates presented in this section take into consideration the level of effort of the Service, the Federal agency, and the applicant, as well as the varying complexity of the consultation. Costs associated with these consultations include the administrative costs associated with conducting the consultations, such as the costs of time spent in meetings, preparing letters, and the development of a biological opinion.

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<sup>1</sup> United States District Court for the District of Columbia, Memorandum Opinion, Civil Action No. 00-2996 (GK), December 26, 2002.

<sup>2</sup> United States District Court for the District of Columbia, Memorandum Opinion, Civil Action No. 00-2996 (GK), January 12, 2004.

Exhibit A-1 provides a summary of the estimated administrative costs per consultation effort.

**EXHIBIT A-1. ESTIMATED ADMINISTRATIVE COSTS OF CONSULTATION (PER EFFORT), 2006\$**

CONSULTATION TYPE	SERVICE	FEDERAL AGENCY	THIRD PARTY	BIOLOGICAL ASSESSMENT
Informal	\$2,250	\$2,900	\$2,050	\$2,000
Formal	\$5,050	\$5,750	\$3,500	\$4,800
Source: IEc analysis based on data from the Federal Government Schedule Rates, Office of Personnel Management, 2006, and a review of consultation records from several Service field offices across the country. Note: Estimates reflect average hourly time required by staff.				

**A.3 SUMMARY OF PAST ADMINISTRATIVE COSTS**

8. Since the listing of the lynx in 2000, there have been more than 800 section 7 consultations. This analysis, however, quantifies only past consultation efforts regarding activities within the boundaries of the potential critical habitat. Where the exact location of a project is unknown, the administrative costs of consultation are included in this analysis. Pre-designation administrative costs are estimated to have been approximately \$827,000 in areas proposed for designation and \$200,000 in areas considered for exclusion (undiscounted dollars).

**A.4 SUMMARY OF FUTURE ADMINISTRATIVE COSTS**

9. This analysis forecasts informal and formal consultations by activity based on review of historical consultations, and research regarding future projects within the potential critical habitat area. Where possible, these future consultations are described by subunit. In the case that information is not available to break out projected consultations by subunit, this analysis distributes consultation efforts proportionally by size of subunit. Over the next 20 years, this analysis estimates approximately \$9.03 million in undiscounted dollars (present value of \$4.78 million applying a seven percent discount rate or \$6.72 million applying a three percent discount rate) in administrative costs in areas proposed for designation and \$896,000 in undiscounted dollars (a present value of \$475,000 applying a seven percent discount rate or \$667,000 applying a three percent discount rate) in areas considered for exclusion. These future consultations break down by activity and subunit as described in Exhibit A-3.
10. The number of forecast consultations is based on the following assumptions:
  - **Silviculture:** 48 informal and 20 formal consultations in areas proposed for designation- These estimates assume future consultations will happen with similar frequency to past consultations. These consultations are either with regard to

silviculture activities within Superior National Forest, or associated with access permits to private inholdings in Federal lands in Montana.

- **Development:** *one consultation* - Only one consultations is forecast for development activities. Although eight informal consultations occurred in the past regarding permitting of commercial or industrial developments, this analysis does not forecast specific development projects across the designation but instead provides information on the value of the development option of the lands within potential critical habitat. The exception is the potential Plum Creek development project as discussed in Section 4 of this analysis; a formal consultation is anticipated for that project.
- **Recreation:** *zero consultations* – As no currently planned recreation projects involving a Federal nexus were identified, this analysis does not forecast future consultations related to recreation in the potential critical habitat. Impacts to recreation described in Section 5 of this analysis are primarily lost welfare values associated with decreased quality of snowmobiling experience due to increased crowding.
- **Public Lands Management and Conservation Planning:** *four formal consultations in areas proposed for designation; six formal consultations in areas considered for exclusion* – As this analysis assumes that landowners will develop lynx management plans in the future, forecast consultations for public lands management are formal consultations primarily for review of lynx management plans for Federal lands managers. One formal consultation is forecast in Glacier National Park with regard to an avalanche control program.
- **Transportation, Utilities, and Municipal Activities:** *96 formal and 644 informal consultations in areas proposed for designation; 1 formal and 28 informal consultations in areas considered for exclusion* – The majority of the total forecast consultations are for transportation, utilities, and municipal activities as described in Section 7 of this analysis. Where information is not available regarding specific future permitted transportation and utility activities, this analysis assumes they will occur with similar frequencies as in the past. This analysis further assumes that all future consultations transportation and dam licensing projects will be formal, and 404-permitted projects will undergo informal consultation.
- **Mining:** *five formal consultations in areas proposed for designation* – This estimate assumes that the five forecast future mining developments will undergo formal consultation.
- **Tribal Activities:** *52 informal consultations* - Consultations associated with Tribal activities in Minnesota and Maine are based on the frequency of these activities over the past six years. These consultations are for a range of activities, from timber sales to Tribal Landowner Incentive Program grants.

11. The number of estimated post-designation consultations for activities within a given subunit is highly uncertain. The frequency of such efforts will be related to the level of economic activity, and the presence of HCPs or other management plans that obviate the need for consultation.

## EXHIBIT A-2. PRE-DESIGNATION CONSULTATION NUMBERS BY SUBUNIT AND ACTIVITY, 2000-2006

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOP-MENT	RECREATION	PUBLIC AND CONSERVA-TION LANDS	TRANSPORTA-TION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
PROPOSED FOR DESIGNATION									
Unit 1: National Park Service	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: U.S. Fish and Wildlife Service	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Maine Department of Conservation	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Maine Dept. of Inland Fisheries and Wildlife	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Baxter State Park Authority	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Private Timber Lands	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Conservation NGO	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Unknown Landowners	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 2: Superior National Forest	Formals	4	-	2	4	-	1	-	11
	Informals	7	-	11	6	-	4	-	28
Unit 2: MN Dept. of Natural Resources	Formals	-	-	-	3	-	-	-	3
	Informals	-	-	1	-	-	-	-	1

## EXHIBIT A-2. CONTINUED

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOP-MENT	RECREATION	PUBLIC AND CONSERVA-TION LANDS	TRANSPORTA-TION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
PROPOSED FOR DESIGNATION									
Unit 2: Private Timber Lands	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 2: Private Mining Lands	Formals	-	-	-	-	-	2	-	2
	Informals	-	-	-	-	-	3	-	3
Unit 2: Unknown Landowner	Formals	-	-	-	-	-	-	-	-
	Informals	-	7	-	-	-	-	-	7
Unit 3: U.S. Fish and Wildlife Service	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Bureau of Reclamation	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Bureau of Land Management	Formals	-	-	1	2	-	-	-	3
	Informals	-	-	1	-	-	-	-	1
Unit 3: MT Department of Natural Resources	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: MT Department of Fish, Wildlife, and Parks	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Montana University System	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Idaho Dept. of Land	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-

## EXHIBIT A-2. CONTINUED

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOP-MENT	RECREATION	PUBLIC AND CONSERVA-TION LANDS	TRANSPORTA-TION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
PROPOSED FOR DESIGNATION									
Unit 3: Municipal/City Government	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Private Timber Lands	Formals	1	-	-	-	-	-	-	1
	Informals	5	-	-	-	-	-	-	5
Unit 3: Conservation NGO	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Unknown Landowner	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: WA Department of Fish and Wildlife	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: WA Dept. of Natural Resources	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: Unknown Landowner	Formals	-	-	-	-	-	-	-	-
	Informals	-	1	-	-	-	-	-	1
Total	Formal	5	-	3	9	-	3	-	20
	Informal	12	8	13	6	-	7	-	46

## EXHIBIT A-2. CONTINUED

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOPMENT	RECREATION	PUBLIC AND CONSERVATION LANDS	TRANSPORTATION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
CONSIDERED FOR EXCLUSION									
Unit 1: Tribal Lands	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	5	5
Unit 2: Voyageurs National Park	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	2	-	-	-	2
Unit 2: Tribal Lands	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	1	-	-	8	9
Unit 3: Glacier National Park	Formals	-	-	-	2	-	-	-	2
	Informals	-	-	-	1	-	-	-	1
Unit 3: Bureau of Land Management	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: North Cascades National Park	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: Lake Chelan National Recreation Area	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Total	Formal	-	-	-	2	-	-	-	2
	Informal	-	-	-	4	-	-	13	17

## A-3. POST-DESIGNATION CONSULTATION NUMBERS BY SUBUNIT AND ACTIVITY, 2006-2025

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOPMENT	RECREATION	PUBLIC AND CONSERVATION LANDS	TRANSPORTATION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
PROPOSED FOR DESIGNATION									
Unit 1: National Park Service	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 1: U.S. Fish and Wildlife Service	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Maine Department of Conservation	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Maine Dept. of Inland Fisheries and Wildlife	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Baxter State Park Authority	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Private Timber Lands	Formals	-	1	-	-	13	-	-	14
	Informals	-	-	-	-	-	-	-	-
Unit 1: Conservation NGO	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 1: Unknown Landowners	Formals	-	-	-	-	49	-	-	49
	Informals	-	-	-	-	-	-	-	-
Unit 2: Superior National Forest	Formals	16	-	-	1	6	4	-	27
	Informals	28	-	-	-	164	-	-	192
Unit 2: MN Dept. of Natural Resources	Formals	-	-	-	-	9	-	-	9
	Informals	-	-	-	-	68	-	-	68

## EXHIBIT A-3. CONTINUED

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOP-MENT	RECREATION	PUBLIC AND CONSERVA-TION LANDS	TRANSPORTA-TION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
PROPOSED FOR DESIGNATION									
Unit 2: Private Timber Lands	Formals	-	-	-	-	1	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 2: Private Mining Lands	Formals	-	-	-	-	-	1	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 2: Unknown Landowner	Formals	-	-	-	-	15	-	-	15
	Informals	-	-	-	-	224	-	-	224
Unit 3: U.S. Fish and Wildlife Service	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 3: Bureau of Reclamation	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Bureau of Land Management	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 3: MT Department of Natural Resources	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	4	-	-	4
Unit 3: MT Department of Fish, Wildlife, and Parks	Formals	-	-	-	-	1	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 3: Montana University System	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	16	-	-	16
Unit 3: Idaho Dept. of Land	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-

## EXHIBIT A-3. CONTINUED

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOPMENT	RECREATION	PUBLIC AND CONSERVATION LANDS	TRANSPORTATION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
PROPOSED FOR DESIGNATION									
Unit 3: Municipal/City Government	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 3: Private Timber Lands	Formals	4	-	-	-	-	-	-	4
	Informals	20	-	-	-	4	-	-	24
Unit 3: Conservation NGO	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	4	-	-	4
Unit 3: Unknown Landowner	Formals	-	-	-	-	2	-	-	2
	Informals	-	-	-	-	160	-	-	160
Unit 4: WA Department of Fish and Wildlife	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: WA Dept. of Natural Resources	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Unit 4: Unknown Landowner	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	-	-
Total	Formal	20	1	-	4	96	5	-	126
	Informal	48	-	-	-	644	-	-	692

## EXHIBIT A-3. CONTINUED

SUBUNIT	TYPE OF CONSULT	SILVI-CULTURE	DEVELOP-MENT	RECREATION	PUBLIC AND CONSERVA-TION LANDS	TRANSPORTA-TION AND UTILITIES	MINING	TRIBAL ACTIVITIES	TOTAL NUMBER
CONSIDERED FOR EXCLUSION									
Unit 1: Tribal Lands	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	20	20
Unit 2: Voyageurs National Park	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 2: Tribal Lands	Formals	-	-	-	-	-	-	-	-
	Informals	-	-	-	-	-	-	32	32
Unit 3: Glacier National Park	Formals	-	-	-	2	1	-	-	3
	Informals	-	-	-	-	28	-	-	28
Unit 3: Bureau of Land Management	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 4: North Cascades National Park	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Unit 4: Lake Chelan National Recreation Area	Formals	-	-	-	1	-	-	-	1
	Informals	-	-	-	-	-	-	-	-
Total	Formal	-	-	-	6	1	-	-	7
	Informal	-	-	-	-	28	-	52	80